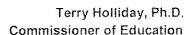


State Policies

- SFSP Policy Memo 2010-01
 - Seriously Deficient Policy
 - All Sponsors
- SFSP Policy Memo 2010-02
 - Point of Service (POS)
 - All Sponsors
 - Prototype
- SFSP Policy Memo 2010-03
 - Delivery Slips
 - Vended and Self-Prep Satellite Sponsors
 - Prototype
- SFSP Policy Memo 2010-04
 - Field Trips
 - All Sponsors
- SFSP Policy Memo 2010-05
 - Production Records
 - All Self-prep Sponsors
 - Prototype







Steven L. Beshear Governor

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SFSP Policy Memorandum 2010-01

TO:

Sponsors of the Summer Food Service Program

FROM:

Denise Hagan, Director

Division of Nutrition and Health Services

SUBJECT:

Serious Deficiency Policy for SFSP Sponsors

DATE:

February 23, 2010

The following outline describes the policy by which Summer Food Service Program sponsors are declared seriously deficient and placed on the State of Kentucky disqualified list for participation.

I. OVERVIEW

The purpose of this policy is to explain the process by which sponsors participating in the Summer Food Service Program (SFSP) may correct findings and serious deficiencies, and provide cause for the termination from the SFSP of sponsors who fail to do so. The legal authority for this policy is 7 CFR 225. If any part of this policy conflicts with the regulations or memoranda issued by the United States Department of Agriculture (USDA), the federal regulations and memoranda shall take precedence.

II. PARTIES AFFECTED

This policy applies to all sponsors applying to or participating in the SFSP.

III. DEFINITIONS AND EXAMPLES

"Sponsor" means a public or private nonprofit school food authority; a public or private nonprofit residential summer camp; a unit of local, municipal, county or state government; a public or private nonprofit college or university currently participating in the National Youth Sports Program or Upward Bound Program; or a private nonprofit organization that develops a special summer or other school vacation program providing food service similar to that made available to children during the school year under the National School Lunch and School Breakfast Programs and that is approved to participate in the SFSP.



"Serious deficiency" includes, but is not limited to, the following criteria provided under 7 CFR 225.11 and 7 CFR 225.14:

1. Noncompliance with the applicable bid procedures and contract requirements of federal child nutrition program regulations.

Examples:

- Failure to competitively procure goods and services
- Anti-competitive practices, such as collusion, kickbacks, conflicts of interest
- Inclusion on non-competitive provisions in a bid, e.g., successful bidder for a contract to provide meals must establish a scholarship fund
- 2. The submission of false information to the Division of Nutrition and Health Services (NHS), Kentucky Department of Education (KDE), including but not limited to, a determination that the sponsor has concealed a conviction for any activity that occurred during the past seven years which indicates a lack of business integrity. Such activities include fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims, obstruction of justice, or any other activity indicating a lack of business integrity as defined by NHS/SFSP.

Examples:

- Misappropriation of funds
- Failure to disclose ineligible officers, directors, and key employees
- Permitting an individual who is on the National Disqualified List and/or the State of Kentucky Disqualified List to serve in a principal capacity for the sponsor and/or permitting such an individual to serve as a principal at a sponsored site or level
- Permitting an individual who has been declared ineligible for any other publicly funded program by reason of violating that program's requirements to serve in a principal capacity at the sponsor or site level
- Listing fictitious employees/officers/board members on an application
- Claiming tax-exempt status when denied, rescinded, etc.
- Submitting the IRS tax-exempt determination letter of a different or even defunct organization
- Claiming non-existent/non-participating sites and/or children
- Inflating meal counts
- Claiming non-existent costs
- Claiming costs disallowed or not included in the approved budget
- Claiming costs for fictitious employees

- Any information submitted to NHS/SFSP that does not accurately reflect the sponsor's operations
- Falsification of any documentation
- Claiming legitimate costs but failing to pay for services
- 3. Failure to return to the Kentucky Department of Education any start-up or advance payments that exceeded the amount earned for serving meals in accordance with federal regulations, or failure to submit all claims for reimbursement in any prior year, provided that failure to return any advance payments for months for which claims for reimbursement are under dispute from any prior year shall not be grounds for disapproval in accordance with federal regulations.
- 4. Failure to repay outstanding debts owed in the SFSP and failure to adhere to payment plan arrangements if a payment plan request is approved.
- 5. Program violations at a significant proportion of the sponsor's sites including, but not limited to, the following:
 - Noncompliance with the meal service time restrictions
 - > Three hours must elapse between the beginning of one meal service, including snacks, and the beginning of another, except that four hours must elapse between the service of a lunch and supper when no snack is served between lunch and supper.
 - Breakfast meal service may not last more than one hour. Lunch meal service may not last more than two hours. The service of supper shall begin no later than 7 pm. In no case may the service of supper extend beyond 8 pm.
 - Failure to maintain adequate records
 - > Sponsors consistently missing records during (different) reviews, complaint investigations, agreed-upon procedures, or audits
 - Missing/incomplete/different amounts or payees for invoices, receipts, cancelled checks, inventories resulting in false/inflated/unsubstantiated claimed costs
 - > Cost records not maintained according to generally accepted accounting principles resulting in false/inflated unsubstantiated claimed costs
 - > Missing/incomplete menu and/or production records
 - > Missing/incomplete meal count records
 - > Missing/incomplete payroll documentation
 - Failure to adjust meal orders to conform to variations in the number of participating children

- > Inflated meal counts; the meals claimed always equal the number of meals ordered/planned
- > Excessive and/or repeat instances of block claiming (i.e., claiming the same number every day for every meal service)
- The simultaneous service of more than one meal to any child
- The claiming of program payments for meals not served to participating children
 - > Claiming meals delivered/planned as meals served to participants
 - > Inflating site meal counts
 - > Claiming non-existent and non-participating sites
 - > Claiming meals for ineligible sites
 - > Knowingly claiming dual participation sites
- Service of a significant number of meals that did not include required quantities of all meal components
- Excessive instances of off-site meal consumption
- Continued use of food service management companies that are in violation of health codes
- 6. Failure to operate the program in conformance with federal performance standards (financial viability, administrative capability, and program accountability).
- 7. Failure of a sponsor to properly train site personnel or monitor sponsored sites in accordance with federal regulations
- 8. Failure to perform any of the other financial and administrative responsibilities required by federal regulations.
- 9. Any other action affecting the sponsor's ability to administer the program in accordance with program requirements.

IV. POLICY

NHS/SFSP works to ensure that the Kentucky SFSP is operated with integrity by monitoring sponsored sites. Findings or violations or program requirements may result from any of the following types of monitoring visits:

- Claim reviews by Nutrition and Health Services staff
- Reviews conducted by USDA
- Annual audits
- Agreed-upon procedures
- Complaint investigations

Based on the finding(s) or other information received, NHS/SFSP will determine whether to classify a finding as an isolated error, a repeated error of a serious nature, or a serious deficiency. A sponsor may be declared seriously deficient when any of the criteria outlined in this policy are met. If NHS/SFSP determines that a sponsor has committed one or more serious deficiencies, it will provide notice to the sponsor and responsible principals and individuals of the serious deficiency(ies) and an opportunity to take corrective action.

If timely corrective action is not taken to fully and permanently correct the serious deficiency(ies), NHS/SFSP will deny the sponsor's application for participation and/or propose to terminate the sponsor's agreement and disqualify the responsible principals and individuals. The sponsor may seek a hearing of the application denial and/or proposed termination and disqualification (see attached Appeal Procedures).

V. PROCEDURES

Part I. Applying Sponsors

If NHS/SFSP determines that a sponsor applying for participation has committed one or more serious deficiency(ies), the NHS/SFSP will notify the sponsor's executive director and chairman of the board of directors that the sponsor has been determined to be seriously deficient. The notice will identify and be sent to the responsible principals and individuals. The notice will specify:

- > The serious deficiency(ies);
- > The actions to be taken and the outcome needed to correct the serious deficiency(ies);
- > The time allotted to correct the serious deficiency(ies);
- > That the determination of the serious deficiency(ies) is not subject to appeal;
- That failure to fully and permanently correct the serious deficiency(ies) within the allotted time will result in NHS/SFSP's denial of the sponsor's application and the proposed disqualification of the sponsor and the responsible principals and individuals from future participation in the program; and
- That the sponsor's voluntary withdrawal of its application with NHS/SFSP after having been notified that it is seriously deficient will result in the sponsor's formal termination by NHS/SFSP and placement of the sponsor and its responsible principals and individuals on Kentucky's State Disqualified List.

CORRECTIVE ACTION

If corrective action is taken to fully and permanently correct the serious deficiency(ies) within the allotted time to NHS's satisfaction, the NHS/SFSP staff will notify the sponsor's executive director and chairman of the board of directors, and all identified responsible principals and individuals that the serious deficiency determination has been rescinded and offer the sponsor the opportunity to resubmit its application. When this notice is issued, NHS will also update the state's list of seriously deficient sponsors to indicate that all serious deficiencies have been corrected and provide a copy of the notice to the United States Department of Agriculture (USDA), Food and Nutrition Services (FNS), Southeast Regional Office (SERO). If corrective action is complete for the sponsor but not for all of the responsible principals and individuals (or vice versa), NHS/SFSP will continue with the application denial and proposed disqualification of the remaining parties.

DENIAL OF APPLICATION

If timely corrective action is not taken to fully and permanently correct the serious deficiency(ies), the NHS/SFSP will notify the sponsor's executive director and chairman of the board of directors, the responsible principals and individuals, that the sponsor's application has been denied. The serious deficiency notice will notify the sponsor:

- 1. That the sponsor's application has been denied, and the NHS/SFSP is proposing to disqualify the sponsor and the responsible principals and individuals;
- 2. The basis for denial;
- 3. That, if the sponsor voluntarily withdraws its application after receiving the notice of proposed termination, the sponsor and the responsible principals and individuals will be disqualified from future participation in the program; and
- 4. The procedures for seeking an appeal of the application denial and proposed disqualifications.

If the time for requesting an appeal expires, NHS/SFSP will notify the institution's executive director and chairman of the board of directors, and the responsible principals and individuals, that the sponsor and the responsible principals and individuals have been disqualified. At the time this notice is issued, NHS/SFSP will add the sponsor, including the responsible principals and individuals, to Kentucky's State Disqualified List.

If KDE overturns NHS/SFSP's application denial and proposed disqualification, the sponsor's executive director and chairman of the board of directors and the responsible principals and individuals will be notified that the application denial and proposed disqualification have been rescinded. At the time this notice is issued, NHS/SFSP will also update the state's list of seriously deficient sponsors.

Part II. Participating Sponsors

FINDING CITED

When findings are cited, NHS/SFSP will determine whether the finding is an isolated error, a repeated error of a serious nature, or an immediate cause for declaring the sponsor seriously deficient.

If NHS/SFSP determines that the sponsor has committed an isolated error, NHS/SFSP will provide technical assistance, provide the opportunity for corrective action, and perform a follow-up visit to ensure the sponsor has resumed continued compliance in all areas of program operations.

If NHS/SFSP determines that the sponsor is still non-compliant in one or more aspects of the program during a follow-up visit or that the sponsor has a finding that rises to the level of serious deficiency, the sponsor will be determined seriously deficient.

SERIOUSLY DEFICIENT SPONSORS

If NHS/SFSP determines that a participating sponsor has committed one or more serious deficiency(ies), the sponsor's executive director and chairman of the board of directors will be notified that the sponsor has been determined to be seriously deficient. The notice will identify the responsible principals and individuals and will be sent to those persons as well. The notice will specify:

- 1. The serious deficiency(ies);
- 2. The action(s) to be taken to correct the serious deficiency(ies);
- 3. The time allotted to correct the serious deficiency(ies);
- 4. That the determination of the serious deficiency(ies) is not subject to appeal;
- 5. That failure to fully and permanently correct the serious deficiency(ies) within the allotted time will result in NHS/SFSP's proposed termination of the sponsor's agreement and the proposed disqualification of the sponsor and the responsible principals and individuals from future participation in the program; and
- 6. That the sponsor's voluntary termination of its agreement with NHS/SFSP after having been notified that it is seriously deficient will still result in the sponsor's formal termination and placement of the sponsor and its responsible principals and individuals on Kentucky's State Disqualified List.

CORRECTIVE ACTION

If the corrective actions are taken to fully and permanently correct the serious deficiency(ies) within the allotted time and no new findings are cited, the administrative review is closed and the serious deficiency determination will be rescinded. The NHS/SFSP will notify the sponsor's executive director and chairman of the board of directors, and the responsible principals and individuals, that NHS/SFSP has rescinded its serious deficiency determination. The sponsor will be removed from the list of seriously deficient sponsors. If corrective action is complete for the sponsor but not for all of the responsible principals and individuals, NHS/SFSP will continue with proposed termination and disqualification of the remaining parties.

The notice will specify:

- 1. That NHS/SFSP is proposing to terminate the sponsor's agreement and to disqualify the sponsor and the responsible principals and individuals;
- 2. The basis for its actions;
- 3. That, if the sponsor voluntarily terminates its agreement after receiving the notice of proposed termination, the sponsor and the responsible principals and individuals will be disqualified;
- 4. The procedures for seeking a hearing of the proposed termination and disqualifications; and
- 5. That, unless participation has been suspended due to imminent health and safety of the children, the sponsor may continue to participate and receive program reimbursement for eligible meals served and allowable administrative costs incurred until the hearing is completed.

Notice of intent to terminate is classified as an adverse action; therefore, the sponsor will be notified in writing of its right to appeal the proposed termination (see attached Appeal Procedures).

Sponsors participating in the SFSP that have received a notice of intent to terminate and appeal such adverse action will be reimbursed for all valid claims submitted to NHS/SFSP that are supported by appropriate documentation during the appeals process. If a serious deficiency constitutes an imminent threat to health or safety of participants, or the sponsor has engaged in activities that threaten the public health or safety, NHS/SFSP may suspend the sponsor's participation (including all

program payments). Also, if the serious deficiency is the submission of a false or fraudulent claim, NHS/SFSP may suspend the sponsor's participation (including all program payments).

If a sponsor fails to appeal the notice of intent to terminate, or the decision to terminate is upheld and the sponsor has exhausted its appeal rights, NHS/SFSP will issue a notice of termination. NHS/SFSP will also place the sponsor, along with the responsible principals and individuals, on Kentucky's State Disqualified List. The names of applicable staff, owners, board members, and others who were responsible for operating the SFSP for the sponsor will also be place on Kentucky's State Disqualified List.

If KDE overturns NHS/SFSP's agreement termination and disqualification, NHS/SFSP will notify the sponsor's executive director and chairman of the board of directors, and the responsible principals and individuals, that the proposed termination and proposed disqualification have been rescinded. At the time this notice is issued, the NHS/SFSP will also update the state's list of seriously deficient sponsors.

VI. COMMENT(S)

Any questions concerning this policy should be directed to the School Nutrition Branch staff at (502)564-5625.

DH/lzh



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SPSP Policy Memo 2010-02

To:

Sponsors of the Summer Food Service Program (SFSP)

From:

Denise Hagan, Director

Nutrition and Health Services

Subject: Guidance for Maintaining an Accurate Point-of-Service Meal Count System

Date:

February 15, 2010

In accordance with 7 CFR 225, all Summer Food Service Program (SFSP) sponsors must maintain documentation to support meals claimed for reimbursement.

The purpose of this memo is to provide guidance to SFSP sponsors on the importance of maintaining an accurate point-of-service meal count system. The point-of-service meal count is required by the United States Department of Agriculture (USDA) for all sponsors of the SFSP. It requires that meals are actually counted and recorded at point-of-service when the complete meal is served to each child.

The point-of-service count allows site personnel an opportunity to ensure that only complete meals are served, recorded, and claimed for meal reimbursement. This is crucial for program compliance since incomplete meals are ineligible for reimbursement.

With the exception of camps and closed enrolled sites which use a roster to document meals served at point-of-service, Nutrition and Health Services (NHS) requires that all other sites use the current prototype Daily Meal Count Form included in the reference section of the Administrative Guidance for the Summer Food Service Program (SFSP) for the documentation of point-of-service meal counts. This guidance is released annually by the USDA. Sponsors must submit and receive prior State Agency approval before using any alternate form for meal count documentation. Camps and closed enrolled sites which use rosters to document meals served at point-of-service must continue to do so.

If you have any questions, please contact the School Nutrition Branch staff at (502) 564-5625.



In accordance with Kentucky State Policy SFSP 2010-02, this form is required by all SFSP Sponsors (excluding camps/roster sites).

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Instructions for Meal Count Form - Daily

Each site must take a point-of-service meal count every day. This form must be used for the daily meal count.

- 1. Line I equals the total meals available. That number equals the number of meals received or prepared plus the number of meals available from the previous day.
- 2. Line 2 equals the total number of first meals served to children. Cross out each number as a child receives a meal. Include any teenagers, 18 and under, paid or unpaid, who are helping out at the site. (If more than 150 children are served at the site, use the optional second page. For sites needing the second page, we suggest printing this form front to back.)
- 3. Line 3 equals the total number of second meals served to children. (Remember, reimbursable meals are limited to no more than two percent of the total number of first meals served.)
- 4. Line 4 equals the total number of meals served to Program adults. "Program adults" are adults who work directly as part of the operation of the food service. This includes all adults who prepare meals, serve meals, clean up, or supervise the children. This does <u>not</u> include teenagers. 18 and under, who may perform these tasks at the site. Meals for children 18 and under are fully reimbursable, and you would count these meals on Line 2.
- 5. Line 5 equals the total number of meals served to non-Program adults. "Non-Program adults" are adults who are not directly involved in the operation of the food service. Non-Program adults include any sponsor administrative staff, such as monitors or sponsor directors, or State or Federal reviewers.
- 6. Line 6 equals the total number of meals served, which is the sum of Lines 1-5.
- 7. Line 7 equals the total number of meals that are unusable because they are damaged, incomplete, or otherwise non-reimbursable.
- 8. Line 8 equals the total number of leftover meals, which is calculated by subtracting Line 6 from Line 1.
- 9. Line 9 equals the sum of Lines 6, 7, and 8. It accounts for all meals and should equal Line 1.
- 10. Use the line at the bottom of the form to record the number of children requesting a (first) meal after all available meals were served. This information is helpful in adjusting meal orders upward.
- 11. The site supervisor must sign and date the meal count form.



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SFSP Policy Memo 2010-03

To:

Sponsors of the Summer Food Service Program (SFSP)

From:

Denise Hagan, Director

Nutrition and Health Services

Subject:

SFSP Delivery Receipts Requirement

Date:

February 15, 2010

In accordance with 7 CFR 225, all Summer Food Service Program (SFSP) sponsors must maintain documentation to support meals claimed for reimbursement.

Beginning with the 2010 program year, Nutrition and Health Services (NHS) will require SFSP sponsors to receive and maintain delivery receipts in addition to the billing invoices of meals purchased for use in the SFSP. This documentation will be used to validate the number of reimbursable meals available to be served at each meal service. This method of recordkeeping is also required for self-preparation sponsors that send meals to satellite sites.

Sponsors have the option of using the State Agency developed prototype delivery receipt, or may develop their own. At a minimum, sponsor developed delivery receipts must document what meal is being delivered, the number of meals delivered, the delivery date and time, and certifying signatures of the delivery driver and site supervisor. Should the sponsor develop and alternative form, it must be submitted and approved by the State Agency prior to implementation.

If you have any questions, please contact the Schools Nutrition Branch at (502) 564-5625.



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SFSP Delivery Slip

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SFSP Delivery Slip

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SFSP Policy Memo 2010-04

To:

Sponsors of the Summer Food Service Program (SFSP)

From:

Denise Hagan, Director

Nutrition and Health Services

Subject:

Guidance for Field Trip Approval in the SFSP

Date:

February 15, 2010

In accordance with 7 CFR 225, all Summer Food Service Program (SFSP) sponsors must notify, and obtain prior approval from, the State Agency for all field trips that affect the time or location of meal service.

The purpose of this memo is to clarify the approval process of field trips for sponsors of the SFSP. If the sponsor is planning a field trip that affects the time or location of meal service, the sponsor must e-mail or fax a written notification to the sponsor's child nutrition program consultant, and if applicable, the meal service vendor at least 72 hours in advance of the field trip.

Sponsors must ensure that menu items are received, safely stored, and adequately transported for all field trips.

If NHS is not notified within the above stated time frame of a field trip, meals served will be considered "consumed off-site" and will not be reimbursed.

If you have any questions, please contact Schools Nutrition Branch staff at (502) 564-5625.





EDUCATION AND WORKFORCE DEVELOPMENT CABINET DEPARTMENT OF EDUCATION

Capital Plaza Tower • 500 Mero Street • Frankfort, Kentucky 40601 Phone: (502) 564-4770 • www.education.ky.gov

SPSP Policy Memo 2010-05

To:

Self-Preparation Sponsors of the Summer Food Service Program (SFSP)

From:

Denise Hagan, Director

Nutrition and Health Services

Subject:

SFSP Menu Production Record Requirement for Self-Preparation Sponsors

Date:

February 15, 2010

In accordance with 7 CFR 225, all Summer Food Service Program (SFSP) sponsors must maintain records of participation and most importantly, of preparation and ordering of meals in order to demonstrate the objective of providing only one meal per child at each meal service.

The purpose of this memo is to clarify the record keeping responsibilities for SFSP self-preparation sponsors. Beginning with the 2010 program year, Nutrition and Health Services (NHS) will require all SFSP self-preparation sponsors to maintain daily production records of foods prepared for use in the SFSP. This documentation will be used to validate the number of reimbursable meals available to be served at each meal service and to ensure that the meals prepared meet the meal pattern requirements of the SFSP.

At a minimum, production records used by SFSP self-preparation sponsors must document the date and type of meal service (i.e., breakfast, lunch, supper, or snack), the menu item prepared, portion size of menu item to be served, number of portions prepared, and the number of leftovers.

With the exception of public school district sponsors, Nutrition and Health Services (NHS) requires that SFSP self-preparation sponsors use the current prototype Production record included in the reference section of the *Nutrition Guidance for the Summer Food Service Program (SFSP)* for meal preparation documentation. This guidance is released annually by the United States Department of Agriculture (USDA). Sponsors must submit and receive prior State Agency approval before using any alternate production record. Public school districts may utilize the same production record used in the operation of their National School Lunch Program (NSLP) without prior State Agency approval.

If you have any questions, please contact the Schools Nutrition Branch staff at (502) 564-5625.



In accordance with Kentucky State Policy SFSP 2010-05, this form is required by all SFSP Self-Preparation Sponsors.

		Daily Menu Production Worksheet	tion Worksheet					
Date (1):	Sponsor:		Site:					
Meal Pattern		Menu (2)	Food Item Used (3)	Quantity Used (4)	Serving Size (5)	C P (6)	P A (7)	Left- overs (8)
Breakfast	Milk, Fluid Juice or Fruit or Vegetable Grain/Bread							
AM Snack	(Select 2) Milk, Fluid Juice or Fruit or Vegetable Grain/Bread Meat/Meat Alternate							
Lunch	Milk. Fluid Vegetable and/or Fruit (2 or more) Grain/Bread Meat/Meat Alternate							
PM Snack	(Select 2) Milk, Fluid Juice or Fruit or Vegetable Grain/Bread Meat/Meat Alternate							
Supper	Milk, Fluid Vegetable and/or Fruit (2 or more) Grain/Bread Meat/Meat Alternate							
Additional Comments:	omments:							

Daily Menu Production Worksheet Instructions

Item Number

- .. Enter the calendar date showing month, day, and year.
- . Enter all menu items served on this date for the appropriate meal service.
- the foods that meet the meal requirements at lunch or supper could be: beef cubes would meet the meat/meat alternate requirement; potatoes and carrots in the pie would meet part of the fruit/vegetable requirement; the Enter the name of each food used to meet meal or snack requirements. For a menu item like beef pot pie, pie crust would meet part or all of the grain/bread requirement. ო
- Enter quantity of each ingredient or food item used to meet the meal requirements. Use weights, measures or number, (e.g., stew beef, 10 lbs; potatoes, 3 lbs; etc.). ┪.
- Enter the portion or serving size of each menu item served (e.g., 5 oz. pie, 1/2 cup juice). Serving sizes can be shown in measures (such as cup measures, scoop size, ladle size), weight, or number (such as medium Ś.
- 6. Enter number of child participants served at each meal/snack.
- Enter the number of program adults served at each meal/snack (if applicable).
- Enter the number of leftovers on the production record. Tracking the source of leftovers is important. Staff can also indicate whether leftovers are to be frozen for later use or incorporate into the menu in the next few ∞